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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/918,394	07/30/2001	Gaurav Mittal	042933/299294	9973
826 7590 09/01/2009 ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			EXAMINER VUONG, QUOCHIEU B	
			ART UNIT	PAPER NUMBER
			2618	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/918,394

Applicant(s)

MITTAL, GAURAV

Examiner

Quochien B. Vuong

Art Unit

2618

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on RCE filed 06/11/2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-4, 7-11, 14, 15, 19-22 and 24-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-4, 7-11, 14, 15, 19-22 and 24-30 is/are rejected.
- 7) ☒ Claim(s) 31-34 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/3508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 06/11/2009 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 2-4, 7-11, 14, 15, 19-22, and 24-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vanttila et al. (US 5,794,142) in view of Hansson (U.S. 6,023,620).

Regarding claims 21, 24 and 30, Vanttila (figure 2) discloses an apparatus and method comprising: a network-positioned download parameter initiation signal generator configured to generate an initiation signal that initiates a request for downloading of the first mobile-station operational parameter (see column 3, lines 9-21; column 7, lines 53-57); and a network-positioned data call connector operable

responsive to acceptance of the request initiated by the initiation signal generated by said network-positioned download parameter initiation signal generator, said network-positioned data call connector configured to establish a data call connection with the mobile station, the data call connection, once formed, for downloading the at least the first mobile-station operational parameter, the first mobile-station operational parameter being repeatedly used pursuant to subsequent communications (column 5, lines 13-24; and column 7, lines 53-67). Vanttila et al. do not specifically disclose the data download with the data connection directly between the mobile station and the server. However, Hansson discloses after receiving a response from a mobile station, the server downloading data to the mobile station through a data connection directly between the mobile station and the server (column 3, line 61 – column 4, line 11). Therefore, it would have been obvious for one having ordinary skill in the art at the time the invention was made to adapt the teaching of Hansson to the data call initiator of Vanttila et al. for directly downloading the revising value from the server to the mobile station without using the SMS as an option for one to select how to downloading the data from the server to the mobile station (as suggested by Hansson, column 4, lines 7-26).

As to claims 22 and 25, Vanttila et al. disclose the apparatus and method further comprising a download-parameter request signal generator to which the initiation signal is delivered, said download-parameter request signal generator for generating a data-message request that forms the request for downloading (see column 3, lines 9-21; column 5, lines 13-24; column 7, lines 53-63; and figure 5).

As to claims 2 and 14, Vanttila et al. disclose that the radio communication system provides for SMS (Short Message Service) message communication, wherein the data message service center comprises an SMS service center, and wherein the download-parameter request signal generator is positioned at the SMS service center (see column 3, lines 56-65).

As to claim 3, Vanttila et al. disclose that the data-message request generated by the download-parameter request signal generator comprises an SMS message for communication to the mobile station center (see column 3, lines 52-57; and figure 2).

As to claims 4 and 15, Vanttila et al. disclose a data message request detector coupled to receive indications of the data message request generated by the download-parameter request signal generator, the data message request detector for detecting the data message request requesting the initiating of the downloading (see column 3, lines 9-21, 52-57).

As to claim 7, Vanttila et al. disclose an operational parameter value provider (figure 2, 36a) coupled to the data call connector, the operational parameter value provider for providing the value of the at least the first operational parameter to the mobile station subsequent to completion of the data call between the node-device and the mobile station (see column 7, lines 60-64; also see column 6; lines 33-35).

As to claim 8, Vanttila et al. and Hansson disclose the apparatus of claim 7 above; in addition, Hansson discloses a data call status reporter operable at least responsive to successful downloading of the value of the at least the first operational parameter provided to the mobile station by the operational parameter value provider to

report the successful downloading of the value to the mobile station (see column 3, lines 5-24; column 4, lines 50-54).

As to claims 9 and 19, Hansson discloses that the data call status reporter further determines whether the downloading of the value of the at least the first operational parameter to the mobile station is successful (see column 3, lines 5-24; column 4, lines 50-54).

As to claims 10 and 20, Hansson discloses that the data call connector further terminates the data call connection subsequent to the report made by the data call status reporter (see column 4, lines 50-54).

As to claim 11, Vanttila et al. disclose authenticating the mobile station prior to completion of the data call between the node-device and the mobile station (see column 6, lines 25-32).

Regarding claims 26 and 28, Vanttila (figure 2) discloses an apparatus and method comprising a network part in a radio communication system, the network part comprising: a download parameter initiation signal generator for generating an initiation signal that initiates a request for downloading of a first mobile-station operational parameter to a mobile terminal (see column 3, lines 9-21; column 7, lines 53-57); and a data call connector responsive to acceptance of the request initiated by the initiation signal generated by said download parameter initiation signal generator, said data call connector for establishing a data call connection in order to download the at least the first mobile-station operational parameter to the mobile-station for repeated use by the mobile-station during subsequent communications; and a network node comprising a

download-parameter request signal generator for receiving the initiation signal, said download-parameter request signal generator for transmitting a data-message request to the mobile-station to notify the mobile-station that at least the first mobile-station operational parameter is available upon request for downloading (column 5, lines 13-24; and column 7, lines 53-67). Vanttila et al. do not specifically disclose the data download with the data connection directly between the mobile station and the server. However, Hansson discloses after receiving a response from a mobile station, the server downloading data to the mobile station through a data connection directly between the mobile station and the server (column 3, line 61 – column 4, line 11). Therefore, it would have been obvious for one having ordinary skill in the art at the time the invention was made to adapt the teaching of Hansson to the data call connector of Vanttila et al. for directly downloading the revising value from the server to the mobile station without using the SMS as an option for one to select how to downloading the data from the server to the mobile station (as suggested by Hansson, column 4, lines 7-26).

As to claims 27 and 29, Vanttila et al. disclose wherein said download-parameter request signal generator is configured to transmit the data-message request as a Short Message Service (SMS) message to the mobile-station (see column 3, lines 56-65).

Allowable Subject Matter

4. Claims 31-34 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

5. Applicant's arguments filed 06/11/2009 have been fully considered but they are not persuasive.

Regarding claims 21, 24, 26, 28 and 30, Applicant argues that Vanttila et al. and Hansson fail to disclose "the first mobile-station operational parameter being repeatedly used pursuant to subsequent communications." The examiner, however, does not agree with the Applicant. Applicant's attention is directed to Vanttila et al. (column 5, lines 13-24) which clearly disclose the claimed limitation. Page 3, lines 3-5 of the present specification states that "Various of such upgrades, and other revisions, require changes to be made in the operational parameters pursuant to which a mobile station operable in a cellular system operates." And Vanttila et al. disclose software update for the mobile station, and the new feature menu will be repeatedly used pursuant to subsequent communications. Therefore, Vanttila et al. reference reads on the claimed feature. In addition, Hansson also discloses that feature (see Hansson, column 3, lines 25-39, and column 4, lines 5-26).

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quochien B. Vuong whose telephone number is (571) 272-7902. The examiner can normally be reached on M-F 9:30-18:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on (571) 272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Quochien B Vuong/
Primary Examiner, Art Unit 2618